

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: EAST PALESTINE TRAIN
DERAILMENT**

)
)

Case No. 4:23-CV-00242-BYP
JUDGE BENITA Y. PEARSON

STATUS REPORT

Pursuant to the Court's April 29, 2025 Order (ECF No. 976) Defendants Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "Norfolk Southern" or "Defendants") by and through their undersigned counsel hereby submit the within Status Report, stating as follows:

I. Individuals and Businesses who have Opted-Out of the Class Action Settlement and are not Named in 14 New Cases

The Court's Order directed counsel for Norfolk Southern to provide an update on any consultations they have had with individuals and businesses "who have validly opted out of the [Class Action] Settlement and who are not named in any of the 14 new cases" filed between January 30, 2025 and February 5, 2025. (See ECF No. 976, PageID #: 68817). The Exclusion List filed with this Court has lines which refer either to an individual or a business. (See ECF No. 552). Without waiver of and expressly reserving all its rights, including to the extent any given individual or business has failed to properly exclude themselves individually and/or their business entity, Norfolk Southern states as follows: Of the individuals and businesses on the Exclusion List, 39 appear to coincide with certain plaintiffs named in the 14 new cases filed in the Northern District of Ohio since January 30, 2025. In addition, 53 individual and business names on the Exclusion List appear to coincide with certain plaintiffs named in litigation currently pending against Norfolk Southern in other jurisdictions.

Accordingly, it appears that the remaining individuals and businesses on the Exclusion List are not involved in current litigation against Norfolk Southern.

After reviewing the list of individuals and businesses who comprise the non-litigant opt-out group discussed above and comparing the same to its records, Norfolk Southern represents that, to the best of its knowledge, it has not been contacted by, or on behalf of, these individuals or businesses with regard to potential resolution or litigation. Accordingly, at this time, there have not been any known consultations with these individuals and businesses, on the one hand, and Norfolk Southern, on the other.

II. Case Nos. 4:24CV0587 and 4:24CV1024

The subrogation action filed by State Farm Fire & Casualty Co. at Case No. 4:24CV00587 has settled. Norfolk Southern is awaiting the executed settlement papers.

The subrogation action filed by Erie Insurance and Homesite Insurance at Case No. 4:24CV1024 has not settled, but consultations are ongoing. Plaintiff Erie Insurance has asserted 20 different subrogation claims and Homesite Insurance has asserted three such claims based on the Plaintiffs' payments to its insureds pursuant to the applicable insurance policies. Plaintiffs' counsel has provided Norfolk Southern's counsel with documents that Plaintiffs believe support their claims, with the latest documents having been provided on April 17, 2025. Plaintiffs' counsel is still in the process of collecting documents on several claims and Norfolk Southern's analysis of the documentation and claims is ongoing.

Respectfully submitted,

WILMER CUTLER PICKERING
HALE AND DORR LLP

/s/Alan Schoenfeld

ALAN SCHOENFELD*
7 World Trade Center
250 Greenwich Street
New York, NY 10007
Tel.: (212) 230-8800
Fax: (212) 230-8888
alan.schoenfeld@wilmerhale.com

DAVINA PUJARI*
CHRIS RHEINHEIMER*
50 California Street, Suite 600
San Francisco, CA 94111
Tel.: (628) 235-1000
Fax: (628) 235-1011
davina.pujari@wilmerhale.com
chris.rheinheimer@wilmerhale.com

ALBINAS PRIZGINTAS*
2100 Pennsylvania Avenue NW
Washington, DC 20036
Tel.: (202) 663-6000
Fax: (202) 663-6363
albinas.prizgintas@wilmerhale.com

DICKIE, MCCAMEY &
CHILCOTE, P.C.

/s/SCOTT D. CLEMENTS

J. LAWSON JOHNSTON
SCOTT D. CLEMENTS, Ohio Bar No. 96529
AARON PONZO*
PAUL ROMAN*
Four Gateway Center
444 Liberty Avenue, Suite 1000
Pittsburgh, PA 15222
Tel.: (412) 281-7272
Fax: (412) 888-811-7144
ljohnston@dmclaw.com
sclemenets@dmclaw.com
aponzo@dmclaw.com
proman@dmclaw.com

**Pro hac vice*

*Counsel for Defendants,
Norfolk Southern Corporation and Norfolk
Southern Railway Company*

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2025, I caused a copy of the foregoing to be filed with the Clerk of the Court using the Court's CM/ECF electronic filing system, which will provide electronic notice to all counsel of record.

/s/Scott D. Clements
Scott D. Clements

33465252.1

33481560.1